

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
COLUMBIA DIVISION

CEDRIC K. MITCHELL]
Plaintiff,]
]]
v.] No. 1:09-0018
] Judge Campbell
OFFICER KERRY GILBERT, et al.]
Defendants.]

M E M O R A N D U M

The plaintiff, proceeding *pro se*, is an inmate at the Northwest Correctional Complex in Tiptonville, Tennessee. He brings this action pursuant to 42 U.S.C. § 1983 against Kerry Gilbert, a member of the Pulaski, Tennessee Police Department; four other Pulaski police officers; and the Pulaski Police Department; seeking injunctive relief and damages.

The plaintiff is a prisoner proceeding in forma pauperis. Docket Entry No.4. The Court, therefore, is now obliged to review the complaint *sua sponte*. 28 U.S.C. § 1915A.

The plaintiff alleges that "around July of 2007", officers of the Pulaski Police Department placed him under arrest for disorderly conduct. While he was lying on the ground with his hands cuffed behind his back, the officers beat him until he was unconscious. The plaintiff claims that the officers used excessive force to arrest him in violation of his constitutional rights.

The plaintiff signed the complaint and presumably placed it in

the prison mail system for posting on November 13, 2008. The plaintiff's claims arose when he was allegedly beaten by the defendants sometime in July, 2007. Thus, it appears that this action is time-barred by the one year statute of limitations imposed upon civil rights claims brought in Tennessee. Merriweather v. City of Memphis, 107 F.3d 396, 398 (6th Cir.1997). Nothing in the complaint suggests that the statute should be tolled so as to permit the untimely filing of the complaint. The Court, therefore, concludes that this action is untimely and is not subject to adjudication. Pino v. Ryan, 49 F.3d 51, 53-54 (2d Cir.1995); see also Watson v. Wigginton, 16 F.3d 1223, 1994 U.S. App. LEXIS 1329, No.93-6023 (unpublished; 6th Cir. January 24, 1994).

Because this action appears to be time-barred, the plaintiff has failed to state a claim upon which § 1983 relief can be granted. Under such circumstances, the Court must dismiss the complaint *sua sponte*. 28 U.S.C. § 1915(e)(2).

An appropriate order will be entered.

Todd Campbell
Todd Campbell
United States District Judge